HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8046 of 2007

Dated:19.04.2007

Between:

Pendyala Remesh

…Petitioner

and

The District Collector and others.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8046 of 2007

ORDER:

The petitioner herein is a resident of Peddapalli Village and Gram Panchayat, Karimnagar District. He made a representation, dated 23.03.2006, to the second respondent - Gram Panchayat alleging that illegal constructions are being made in the land admeasuring Ac.0.90 guntas in Shanthinagar locality, which is classified as 'Abadi land'. The petitioner also sent other representations, in vain. He also stated that on a query by the Mandal Revenue Officer, the second respondent submitted a report stating that permission for construction was granted to two persons over an extent of Ac.0.02 guntas and three other persons have applied for permission to construct a house. The petitioner got issued a legal notice. Acting on the same, the second respondent issued notices to respondents 5 and 6 directing them to stop construction on the ground that no such permission was granted to them. In spite of receipt of the said notices, dated 31.03.2007, respondents 5 and 6 are proceeding with the construction. Therefore, the petitioner filed the instant Writ Petition seeking a Mandamus directing respondents 1 and 2 to implement the orders in notices, dated 31.03.2007, issued by the second respondent to stop illegal constructions in Gram Kantam Abadi land.

After hearing the learned Counsel for the petitioner and the learned Assistant Government Pleader for Panchayat Raj, this Court is convinced that the Writ Petition is misconceived. The Andhra Pradesh Gram Panchayat Land Development (Layout and Building) Rules, 2002, govern in exercise of powers by the Gram Panchayat, while granting permission for constructions under Sections 120 and 121 of

the Andhra Pradesh Panchayat Raj Act, 1994 (for short, 'the Act'). Rule 33 of the Rules reads as under.

Rule 33: Offences and Penalties:

(1) Any person who contravenes any of the provisions of these rules or any requirements or obligations imposed on him by virtue of these rules shall be guilty of an offence by the District Panchayat Officer shall be punished with a fine as prescribed in these rules by the District Panchayat Officer and in case of continuing offence a daily fine until the contravention is made good or removed;

(i) take suitable actions including demolition of unauthorised works;

(ii) take suitable action against technical personnel, which include prosecution or debarring him from further practice up to three years;

(iii) any unauthorised Tobacco barn running without a license from Tobacco Board is liable for demolition. In the alternative in consultation with Tobacco Board a fine of Rs.30,000/- per annum may be imposed on unauthorised Tobacco barns which is recoverable under Revenue Recovery Act.

(2) In the case of unauthorised constructions, the District Panchayat Officer or his officers may take any of the above actions and issue suitable instructions to the executive Authority or any other body for necessary action against the unauthorised construction/layout, besides taking action on the Executive Authority for allowing such unauthorised developments.

A reading of the above Rule would show that when a person contravenes any provisions of the Act or when he makes such constructions without obtaining permission from the Gram Panchayat, it is always open to the Gram Panchayat to take necessary action, as indicated in the above rule. Indeed, acting on the representation of the petitioner, the Gram Panchayat has already issued notices to respondents 3 to 6 a couple of weeks ago and there cannot be any doubt Gram Panchayat would discharge its duty under the Rules.

The Writ Petition, with the above observation, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

19.04.2007

GJ